

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

BNSF RAILWAY COMPANY,)	
)	
Plaintiff,)	
)	Case No. 2:22-CV-00068-RLW
v.)	
)	
PAULINE MAGIN, et al.,)	
)	
Defendants.)	

**BNSF RAILWAY COMPANY’S FIRST MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Defendants Angelika Salazar, Ngoc Pham, Estevan Carreon, Tami Lakey, Kimberly Howard, Noel Lucero, Sherri Schwanz, and Allen Gallaway (hereinafter referred to as the “Signatory Passengers”) unequivocally assented to the Arbitration Agreement. The principles of contract formation (and in Mr. Gallaway’s case, principles of agency) here are so fundamental that no conflicts of law exist, and no choice of law analysis is necessary. Because these principles dictate that an arbitration agreement exists, federal law requires arbitration of the Signatory Passengers’ claims covered by the agreement.

These Signatory Passengers’ state court claims are subject to binding arbitration. There is no genuine dispute as to any material fact, and BNSF Railway Company is entitled to judgment as a matter of law compelling the Signatory Passengers to arbitrate and enjoining them from pursuing their state court actions. Pursuant to Fed. R. Civ. P. 56 and 9 U.S.C. § 4, BNSF respectfully moves the Court for such relief. BNSF concurrently files its Memorandum in Support of its First Motion for Partial Summary Judgment and an accompanying Statement of Uncontroverted Material Facts.

Respectfully submitted,

/s/ Sean P. Hamer

Sean P. Hamer MO # 48153
Scott R. Ast MO # 51699
Paula Brown MO # 45870
Kelly L. Murphy MO # 72573
Alex A. McKenna MO # 72024
SCHARNHORST AST KENNARD GRIFFIN, P.C.
1100 Walnut, Suite 1950
Kansas City, Missouri 64106
T: (816) 268-9400/F: (816) 268-9409
Email: shamer@sakg.com
sast@sakg.com
pbrown@sakg.com
kmurphy@sakg.com
amckenna@sakg.com

Mark S. Landman (*Pro Hac Vice Pending*)
John A. Bonventre (*Pro Hac Vice Pending*)
LANDMAN CORSI BALLAINE & FORD, P.C.
120 Broadway, 13th Floor
New York, New York 10271
T: (212) 238-4800/F: (212) 238-4848
Email: mlandman@lcbf.com
Email: jbonventre@lcbf.com

Attorneys for BNSF Railway Company

CERTIFICATE OF SERVICE

I certify that on the 12th day of January 2022, a true and accurate copy of the foregoing was filed through the Court's electronic filing system, which will serve notification upon all interested parties.

/s/ Sean P. Hamer

Attorney